

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

BIO-RAD LABORATORIES, INC. and THE
UNIVERSITY OF CHICAGO,

Plaintiffs,

v.

10X GENOMICS, INC.,

Defendant.

C.A. No. 15-152-RGA

NOTICE OF APPEAL

Notice is hereby given under Fed. R. App. P. 3 that Defendant 10x Genomics, Inc. hereby appeals to the United States Court of Appeals for the Federal Circuit from the order of the United States District Court for the District of Delaware denying Defendant's Rule 50(b) and Rule 59 motions, dated July 9, 2019 (D.I. 560), and the judgment on the jury verdict (D.I. 478), and from any and all other judgments, orders, opinions, decisions, rulings, and findings subsidiary thereto, subsumed therein, or subsequent thereto.

Defendant understands that the pending order on Plaintiffs' motion for a permanent injunction renders the case non-final within the meaning of 28 U.S.C. § 1292(c). *See Advanced Cardiovascular Sys., Inc. v. Medtronic Vascular, Inc.*, 231 F. App'x 962, 963 (Fed. Cir. 2007) ("Medtronic's appeal is premature because ACS's request for permanent injunctive relief in its complaint remains pending and thus the case is not final except for an accounting."). Nonetheless, Fed. R. App. P. 4(a)(4) does not extend the time to appeal to account for a motion for permanent injunction. Accordingly, for the avoidance of doubt, Defendant files this protective notice of appeal.

This protective notice will become effective when the order on the permanent injunction is entered. *See PODS, Inc. v. Porta Stor, Inc.*, 484 F.3d 1359, 1365 (Fed. Cir. 2007) (although appeal was premature under 28 U.S.C. § 1292(c)(2) because request for injunctive relief had not been decided, appeal was treated as timely when district court decided claim for injunctive relief during pendency of appeal).

RICHARDS, LAYTON & FINGER, P.A.

Of Counsel:

ORRICK HERRINGTON &
SUTCLIFFE LLP

E. Joshua Rosenkranz
(jrosenkrantz@orrick.com)
Melanie L. Bostwick (mbostwick@orrick.com)
Elizabeth R. Moulton (emoulton@orrick.com)
51 West 52nd Street
New York, NY 10019-6142
(212) 506-5380

TENSEGRITY LAW GROUP LLP

Matthew Powers
(matthew.powers@tensegritylawgroup.com)
Azra Hadzimehmedovic
(azra@tensegritylawgroup.com)
Robert Gerrity
(robert.gerrity@tensegritylawgroup.com)
555 Twin Dolphin Drive
Suite 650
Redwood Shores, CA 94065
(650) 802-6000

DATED: August 8, 2019

/s/ Frederick L. Cottrell, III

Frederick L. Cottrell, III (#2555)
Jason J. Rawnsley (#5379)
Alexandra M. Ewing (#6407)
920 North King Street
Wilmington, DE 19801
(302) 651-7550
cottrell@rlf.com
rawnsley@rlf.com
ewing@rlf.com

Attorneys for 10x Genomics, Inc.